



Office of the Public Defender State of Hawai‘i

Testimony of the Office of the Public Defender, State of Hawai‘i to the House Committee on Judiciary

March 9, 2019

S.B. No. 413 (SSCR771): RELATING TO TRESPASS

Hearing: Monday, March 11, 2019, 2:00 p.m.

Chair Lee, Vice Chair San Buenaventura, and Members of the Committee:

The Office of the Public Defender opposes S.B. No. 413.

This measure is unnecessary because the second-degree criminal trespass statute, as currently written, does not require the prosecution to introduce the original written “reasonable warning or request” as evidence in a criminal trial. Moreover, Rule 1003 of the Hawai‘i Rules of Evidence provides, in pertinent part, “A duplicate is admissible to the same extent as an original.”

We cannot recall the prosecution ever submitting an original prior written warning as evidence at a criminal trial; in fact, the prosecution has always submitted a duplicate in lieu of the original. Additionally, a judge has never refused a duplicate prior written warning to be received in evidence. Therefore, if a duplicate of the prior written warning is admissible for trial, a duplicate is certainly sufficient to allow a complaint to be made.

Rather than amending the criminal trespass statute, police officers simply need to be instructed that an owner or lessee need not be in possession of the original copy of the prior written warning and that a duplicate is sufficient.

Thank you for the opportunity to comment on S.B. No. 413.



**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
March 11, 2019**

Re: SB 413 Relating to Trespass

Good afternoon Chairperson Lee and members of the House Committee on Judiciary. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii (RMH) is a statewide not-for-profit trade organization committed to supporting the retail industry and business in general in Hawaii. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

We **STRONGLY SUPPORT** SB 413 Relating to Trespass. This measure specifies that for purposes of making a complaint for criminal trespass in the second degree on commercial premises, evidence of a prior "reasonable warning or request" to leave the premises may be evidenced by a copy of the previously issued written warning or request, whether or not the copy is posted at the premises or retained by the county police department.

As retailers, our businesses are open to the public. Throughout the past couple of years, retailers have seen an increase in organized retail crime. In some cases it is the same individual who comes into the stores on a weekly and sometimes daily basis to steal items that they will resell to others. Trespassing these individuals has become difficult and we feel that this measure would help in the efforts.

Mahalo for this opportunity to testify.